IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Bail Appl..No. 7699 of 2007()

C.C.NO. 64/07 OF THE JFCM-III, PALGHAT

PETITIONER/A2

M.DEVADAS, AGED 35 YEARS,
S/O.MANIYANA KUTTY, PALLIKANDATH HOUSE, NOORMI P.O
VENNAKARA, PALAKKAD.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

RESPONDENTS:

STTE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7699 of 2007

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Dated this the 7th day of December, 2007

O R D E R

The petitioner is the second accused in a prosecution for offences punishable, inter alia, under Section 324 I.P.C. All the offences are bailable offences. The case against the co-accused gas already come to termination by composition. As the petitioner had not entered appearance, the case against him had been split up. Coercive processes have been issued against the petitioner. The petitioner finds such processes issued by the learned Magistrate chasing him.

2. According to the petitioner he is absolutely innocent. His absence was not willful or deliberate, but on account of reasons beyond his control. He had not been served with any notice or summons. His name is not correctly described in the complaint. He is willing to surrender before the learned Magistrate, but he apprehends that his application for bail may

not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Sessions Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice

to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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